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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/531,295	11/15/2005	Cristiano Casale	1034170-000028	6251

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EXAMINER

VOLZ, ELIZABETH J

ART UNIT	PAPER NUMBER
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3781

NOTIFICATION DATE	DELIVERY MODE
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11/25/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com

Office Action Summary	Application No. 10/531,295	Applicant(s) CASALE ET AL.	
	Examiner ELIZABETH VOLZ	Art Unit 3781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 July 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/12/09</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

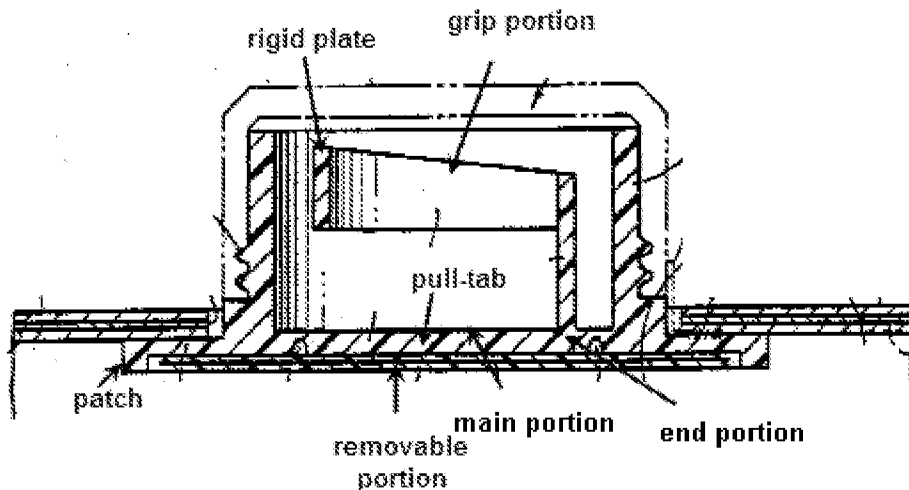
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 8, 9, 12-14, 16 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Kawajiri (U.S. Patent No. 5,069,372).

3. Regarding Claims 1 and 14, Kawajiri discloses a sealed package for pourable food products, having at least one removable portion (Figure 1 below), and a closable opening device in turn comprising a frame 13a (Figure 1) defining a pour opening (Figure 1) and fixed to said package about said removable portion, a cap 13 (Figure 1) fitted to said frame to close said pour opening and movable to free the pour opening, and pull-off opening means housed in said frame and comprising a rigid plate (Figure 1 below) integral with said removable portion and extractable from the frame, by pulling action, together with at least part of said removable portion; and further comprising a pull-tab of sheet material interposed between said removable portion and said plate and attached to both (Figure 1).

Figure 1 (Kawajiri)



4. Regarding Claim 8, Kawajiri discloses a plate (Figure 1 above) which is connected integrally to said frame by breakable connecting means 16 (Figure 1) defining a parting direction in which said plate is parted from the frame, and which is parallel to an opening direction of said pull-tab (Figure 1).
5. Regarding Claim 9, Kawajiri discloses a plate (Figure 1 above) which comprises a base portion attached to said pull-tab; and a grip portion (Figure 1 above) projecting from said base portion and accessible through said frame when said cap is removed from said pour opening (Figure 1).
6. Regarding Claim 12, Kawajiri discloses a grip portion (Figure 1 above) which is substantially ring-shaped (Column 4, Lines 40-41), projects from one end of said base portion, and is bent over the base portion.
7. Regarding Claim 13, Kawajiri discloses a removable portion (Figure 1 above) which comprises a patch of thermoplastic material (Figure 1 above; Column 4, Lines 46-

Art Unit: 3781

48) applied to the inside of said package to close a through hole in the package (Figure 1).

8. Regarding Claim 16, Kawajiri discloses a pull-tab (Figure 1 above) which is configured to remain attached to the plate and the removable portion when the plate is extracted from the frame (Column 5, Lines 23-30).

9. Regarding Claim 17, Kawajiri discloses a plate (Figure 1 above) which is connected to the removable portion via the pull-tab.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 2-4 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawajiri (U.S. Patent No. 5,069,372) in view of Hardt (U.S. Patent No. 4,328,905).

12. Regarding Claims 2 and 15, Kawajiri discloses a pull-tab (Figure 1 above) which comprises a main portion (Figure 1 above) which is attached to a removable portion and an end portion (Figure 1 above) attached to a plate. Kawajiri does not disclose a pull-tab which comprises an end portion folded over a main portion. However, Hardt teaches a pull-tab which comprises an end portion 6 (Figure 1) folded over a main portion 5 (Figure 1). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Kawajiri to include a pull-tab which

Art Unit: 3781

comprises an end portion folded over a main portion, as taught by Hardt, in order to allow the pull-tab to be removed easier.

13. Regarding Claim 3, Kawajiri discloses a plate (Figure 1 above) which is connected integrally to said frame by breakable connecting means 16 (Figure 1) defining a parting direction in which said plate is parted from the frame, and which is parallel to an opening direction of said pull-tab (Figure 1).

14. Regarding Claim 4, Kawajiri discloses a plate (Figure 1 above) which comprises a base portion attached to said pull-tab; and a grip portion (Figure 1 above) projecting from said base portion and accessible through said frame when said cap is removed from said pour opening (Figure 1).

15. Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawajiri (U.S. Patent No. 5,069,372) in view of Hardt (U.S. Patent No. 4,328,905) and Colby (U.S. Patent No. 3,576,272).

16. Regarding Claim 5, Kawajiri and Hardt teach all the limitations substantially as claimed except for a breakable connecting means which comprises two parallel breakable strips of material. However, Colby teaches a breakable connecting means which comprises two parallel breakable strips of material 20/22 (Figure 1). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Kawajiri and Hardt to include a breakable connecting means which comprises two parallel breakable strips of material, as taught by Colby, in order to provide a well defined opening.

Art Unit: 3781

17. Regarding Claim 6, Kawajiri discloses a grip portion (Figure 1 above) which is substantially ring-shaped (Column 4, Lines 40-41), projects from one end of said base portion, and is bent over the base portion

18. Regarding Claim 7, Kawajiri discloses a removable portion (Figure 1 above) comprises a patch (Figure 1 above) of thermoplastic material (Column 4, Lines 46-48) applied to the inside of said package to close a through hole in the package.

19. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawajiri (U.S. Patent No. 5,069,372) in view of Colby (U.S. Patent No. 3,576,272).

20. Regarding Claim 10, Kawajiri teaches all the limitations substantially as claimed except for a breakable connecting means which comprises two parallel breakable strips of material. However, Colby teaches a breakable connecting means which comprises two parallel breakable strips of material 20/22 (Figure 1). Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to modify Kawajiri to include a breakable connecting means which comprises two parallel breakable strips of material, as taught by Colby, in order to provide a well defined opening.

21. Regarding Claim 11, Kawajiri discloses a grip portion (Figure 1 above) which is substantially ring-shaped (Column 4, Lines 40-41), projects from one end of said base portion, and is bent over the base portion (Figure 1).

22. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F. R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented

Art Unit: 3781

claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 2163.06 II(A), MPEP 2163.06 and MPEP 714.02. The "disclosure" includes the claims, the specification and the drawings.

Response to Arguments

23. Applicant's arguments with respect to Claims 1-17 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ELIZABETH VOLZ whose telephone number is (571) 270-5430. The examiner can normally be reached on Monday-Thursday, 8am-5pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on (571) 272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3781

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/E. V./
Examiner, Art Unit 3781

/Anthony Stashick/
Supervisory Patent Examiner, Art
Unit 3781